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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 10/634,189 08/04/2003 Ronald Nasco 3023.2.6 - ? 7095

08/18/2004

MICHAEK W. STARKWEATHER **8 EAST BROADWAY** SUITE 600 SALT LAKE CITY, UT 84111

EXAMINER PHILLIPS, CHARLES E

ART UNIT PAPER NUMBER

3751

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Patent and Trademark Office OL-326 (Rev. 1-04) Office	e Action Summary		Part of Paper No./Mail Date 20040722
ttachment(s) Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SB, Paper No(s)/Mail Date 8/4/03.		Paper No(s)/M	nmary (PTO-413) Mail Date rmal Patent Application (PTO-152)
12) Acknowledgment is made of a claim for fore a) All b) Some * c) None of: 1. Certified copies of the priority docum 2. Certified copies of the priority docum 3. Copies of the certified copies of the papplication from the International But * See the attached detailed Office action for a	nents have been ronents have been ronents have been ronents priority documents reau (PCT Rule 1	eceived. eceived in App have been re 7.2(a)).	olication No ceived in this National Stage
Priority under 35 U.S.C. § 119			40() (1) (2)
Applicant may not request that any objection to Replacement drawing sheet(s) including the cor 11) The oath or declaration is objected to by the	accepted or b) the drawing(s) be frection is required	eld in abeyance f the drawing(s)	e. See 37 CFR 1.85(a). is objected to. See 37 CFR 1.121(d).
Application Papers			
4a) Of the above claim(s) is/are with 5) Claim(s) is/are allowed. 6) Claim(s) 10 and 11 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction are	ndrawn from consi		
4)⊠ Claim(s) <u>10 and 11</u> is/are pending in the ap	pplication.		
Disposition of Claims	ioi Ex parte Quay		11, 400 0.0. 210.
3) Since this application is in condition for allo closed in accordance with the practice und			•
2a) ☐ This action is FINAL . 2b) ☐ 2	This action is non-		
1) Responsive to communication(s) filed on _	· •		•
earned patent term adjustment. See 37 CFR 1.704(b). Status			•
A SHORTENED STATUTORY PERIOD FOR RE THE MAILING DATE OF THIS COMMUNICATIO - Extensions of time may be available under the provisions of 37 CFI after SIX (6) MONTHS from the mailing date of this communication - If the period for reply specified above is less than thirty (30) days, a - If NO period for reply is specified above, the maximum statutory pe - Failure to reply within the set or extended period for reply will, by st Any reply received by the Office later than three months after the m	DN. FR 1.136(a). In no event, n. a reply within the statutory eriod will apply and will ex statute, cause the applicat	nowever, may a repl minimum of thirty (3 pire SIX (6) MONTH on to become ABAN	y be timely filed 30) days will be considered timely. IS from the mailing date of this communication. IDONED (35 U.S.C.§ 133).
Period for Reply			
The MAILING DATE of this communication	Charles E. Pl	•	the correspondence address
Office Ction Summary	Examiner		Art Unit
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mal in 1		No.	

Application/Control Number: 10/634,189

Art Unit: 3751

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Poston.

See Fig. 5, where a plunger and handle are seen covered by a container which includes a vegetation holder at its upper portion where a flower is depicted.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poston, as applied supra, in view of Kent.

Kent, viewing Fig. 8 teaches a decorative overlay 315 on a plunger holder (see col. 3, lines 63-65) where seasonal artwork "depicting various holiday scenes" is seen. This teaches removal of one scene in favor of another. To provide for the removal of the flower of Poston in light of these teachings would have been obvious to the ordinary artisan.

Applicant refers to "the new C-I-P application, however, no reference to a parent is included and no mention of a parent is evident in the specification or oath. This should be corrected.

Application/Control Number: 10/634,189

Art Unit: 3751

Any inquiry concerning this communication should be directed to Charles E.

Phillips at telephone number 308-1515.

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Primary Examiner

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PTO/SB/08A (10-96)

Approved for use through 10/31/99, 0MB 0651-0031

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

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Compl t if Known					
Application Number					
Filing Date					
First Named Inventor	Ronald Nasco				
Group Art Unit					
Examiner Name					
Attorney Docket Number	13490 0006				

			U.S. PATENT DOC	UMENTS	
Examiner Initials	Cite No.¹	U.S. Patent Document Number (# known)	Name of Patentae or Applicant	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relovant Passages or Relevant Figures Appear
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/_		5,971,141	Shafik	10/26/1999	
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^{*}EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. 2 See attached Kinds of U.S. Patent Documents. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 Kind of the serial number of the patent document. possible. Applicant is to place a check mark here if English language Translation is attached.

Notice of References Cited		10/6	Application/Control No. 10/634,189 Examiner Charles E. Phillips		Applicant(s)/Patent Under Reexamination NASCO, RONALD	
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<u> </u>	Document Number Country Code-Number-Kind Code			T DOCUMENTS	3751	<u> </u>
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